

MINUTES
MANSFIELD PLANNING AND ZONING COMMISSION
Regular Meeting
Monday May 4, 2015
Council Chamber, Audrey P. Beck Municipal Building

Members present: J. Goodwin, R. Hall (arrived at 7:27 p.m.), G. Lewis, B. Pociask, P. Plante, K. Rawn, B. Ryan,
Members absent: B. Chandy, K. Holt,
Alternates present: P. Aho, V. Ward, S. Westa
Staff present: Linda Painter, Director of Planning and Development
Jennifer Kaufman, Natural Resources and Sustainability Coordinator

Chairman Goodwin called the meeting to order at 7:25 p.m. and appointed alternates Aho and Westa to act and Ryan as Acting Secretary.

Minutes:

04-20-2015 Meeting Minutes –Rawn MOVED, and Aho seconded, to approve the 04-20-2015 meeting minutes. MOTION PASSED with all in favor except Plante, Pociask and Westa who disqualified themselves.

Zoning Agents Report:

Lewis questioned the “Vote No Sewers” sign on Route 44. Hirsch explained that it is the staff’s opinion that the sign is political in nature and therefore, its removal cannot be compelled.

Public Hearings:

Special Permit Application, Commercial Recreation Use with Restaurant, 95 Storrs Road; East Brook F LLC, East Brook T LLC, and East Brook W LLC; PZC File #432-6

Chairman Goodwin recused herself and appointed Vice Chair Ryan to act as Chair. Ryan appointed Ward to act for Goodwin. Ryan opened the Public Hearing at 7:30. Members present were Hall, Lewis, Pociask, Plante, Rawn, Ryan and alternates Aho, Ward and Westa all of whom were acting.

Linda Painter, Director of Planning and Development read the legal notice as it appeared in the Chronicle on April 21 and April 29, 2015 and noted the following memo’s received in addition to the applicant’s submittal: a 5/4/15 updated memo and a 4/30/15 memo from L. Painter, Director of Planning and Development; a 4/23/15 memo from F. Raiola, Fire Marshal; and a 4/30/15 memo from D. Dilaj, Assistant Town Engineer. Painter also stated that today the applicant submitted a revised cover sheet; a signed and sealed copy of a Property/Boundary ATLA/ACSM Land Title Survey, dated October 18, 2013 and revised through May 2, 2015; and Sheet A-1.2 revised through April 30, 2015.

John Everett, New England Design, acting on behalf of the applicant, reviewed the plans to utilize the remaining 15,800 square feet of the former J.C. Penny space with a commercial recreation/restaurant. He reviewed the changes made to plans submitted today and the waiver requests in detail. He noted that based on calculations, the mall requires 978 parking spaces and there is currently 976. He reviewed plans to add an additional 2 spaces in a mulched island area and create a “zen garden” at the west side of the tenant space (rear entrance).

Ken Caputo, owner of the proposed use, explained that he and his wife intended to open a karate/recreation space, which will provide fitness classes and activities on either a membership or walk in basis. The use will also include a food service area for light meals. He stated that all children attending the facility must be accompanied by a parent. The hours of operation will roughly coincide with the general mall hours.

Richard Hayes, of Hayes Kaufman, spoke in opposition to the plan citing as his reasons, the pending litigation in association with the “Michael’s” Application and the waivers requested by the applicant. He urged members not to approve this application, or any application submitted to the Commission regarding the mall, until the pending litigation is fully resolved.

Susie Hays, Updike, Kelly & Spellacy, P.C., Attorney representing the applicant, stated that this application is separate from the application that gave rise to the pending litigation and that, as a separate and distinct application, we are bound to act on it within the statutory time frames.

Noting no further questions or comments from the Commission or Public, Plante MOVED, Hall seconded, to close the Public Hearing at 8:08 p.m. MOTION PASSED UNANIMOUSLY.

Special Permit Application, Efficiency Unit, 43 Storrs Heights Road; Ray DiCapua, PZC File #1331

Chairman Goodwin opened the Public Hearing at 8:09 p.m. Members present were Goodwin, Hall, Lewis, Pociask, Plante, Rawn, Ryan and alternates Aho, Ward and Westa. Aho and West were appointed to act.

Linda Painter, Director of Planning and Development read the legal notice as it appeared in the Chronicle on April 21 and April 29, 2015 and noted a 4/30/15 Memo from Zoning Agent in addition to the applicant’s submittal.

Ray DiCapua of 43 Storrs Heights Road presented his application. There were no questions or comments from Members or from the public. Hirsch noted that neighborhood notification receipts have been received. Plante MOVED, Hall seconded, to close the Public Hearing at 8:11 p.m. MOTION PASSED UNANIMOUSLY.

Old Business:

a. Special Permit Application, Commercial Recreation Use with Restaurant, 95 Storrs Road; East Brook F LLC, East Brook T LLC, and East Brook W LLC; PZC File #432-6

Goodwin recused herself and Vice Chairman Ryan appointed Ward to act in her place. Members requested clarification from the Town Attorney that the pending litigation did not impact the Commission’s ability to act on this application and that the requested waivers were consistent with recent court rulings. Painter stated that she would consult with the Town Attorney and this matter will be on the next agenda. Rawn volunteered to work with staff on a draft motion.

b. Special Permit Application, Efficiency Unit, 43 Storrs Heights Road; Ray DiCapua, PZC File #1331

Lewis MOVED, Plante seconded, to approve the March 23, 2015 application of Ray DiCapua to allow an efficiency dwelling unit at 43 Storrs Heights Road in an RAR-90 zone, as shown on submitted plans and described in other application submissions and as presented at Public Hearing on May 4, 2015.

Pursuant to Article V, Section B.4 of the Mansfield Zoning Regulations, the site plan requirements contained in Section A.3. are hereby waived as there is no proposed expansion of the building and the information is not needed to determine compliance with the zoning regulations.

This approval is granted because the application is not expected to result in any detrimental neighborhood impacts and is considered to be in compliance with Article X, Section L; Article V, Section B; and other provisions of the Mansfield Zoning Regulations, and is granted with the following conditions:

1. This approval has been granted for a one-bedroom efficiency unit in association with a single-family home having two additional bedrooms. Any increase in the number of bedrooms on this property shall necessitate subsequent review and approval from the Eastern Highlands Health District and the

Planning and Zoning Commission.

2. This approval is conditioned upon continued compliance with Mansfield's Zoning Regulations for efficiency units, which include owner-occupancy requirements, limitations on the number of residents in an efficiency unit and limitations on the number of unrelated individuals that may live in a dwelling unit pursuant to the definition of Family contained in the Zoning Regulations. These limitations apply regardless of the number of bedrooms present in the home. Pursuant to Article X, Section L.2, the applicant shall submit a notarized affidavit certifying owner occupancy and a written statement regarding compliance with efficiency unit regulations every two years, starting on January 1, 2016.
3. This special permit shall not become valid until filed upon the Land Records by the applicant.

MOTION PASSED UNANIMOUSLY.

- c. **Mansfield Tomorrow: Plan of Conservation and Development (December 2014 Public Hearing Draft)**
Tabled pending a 5/18/15 Public Hearing

New Business:

- a. **Special Permit Application, Efficiency Unit, 5 Hillside Circle; Steven Sorrels, PZC File#1332**

Ryan MOVED, Plante seconded, to receive the Special Permit application submitted by Steven Sorrels, for an efficiency unit, on property located at 5 Hillside Circle, Owned by the application, as shown on plans dated 4/24/15 and as described in other application submissions and to refer said application to the Staff for review and comments, and to set a Public Hearing for June 1, 2015. MOTION PASSED UNANIMOUSLY.

- b. **Kay Holt's request to a waiver of attendance requirements**

Lewis MOVED, Pociask seconded, to waive the attendance requirements for Katherine Holt due to extenuating circumstances. Bonnie Ryan is hereby appointed to serve as Secretary during her absence and for the month following her return. MOTION PASSED UNANIMOUSLY.

Plante requested that his comments on this item, made in the earlier IWA meeting, be incorporated as part of the record of these proceedings.

Reports from Officers and Committees:

No report offered.

Communications and Bills:

None.

Adjournment:

The Chair set a field trip for 5/13/15 at 2:30 p.m. and declared the meeting was adjourned at 8:34 p.m.

Respectfully submitted,

Bonnie Ryan, Acting Secretary